

200751259
(MLL)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
AT DAYTON

IN RE:

Areta J. Wentz

Debtor

Case No. 07-34235

Chapter 13

Judge Humphrey

**MOTION FOR RELIEF FROM STAY
AND CO-DEBTOR STAY OF SAXON
MORTGAGE, INC. (PROPERTY
ADDRESS: 1117 NORTH MAPLE
STREET, EATON, OHIO 45320)**

Saxon Mortgage, Inc., a secured creditor herein, moves to modify the automatic stay imposed by Section 362 of the Bankruptcy Code, and co-debtor stay imposed by Section 1301 of the Bankruptcy Code, and states as follows:

1. Movant is the holder of a mortgage lien on certain real property owned by the debtor, and co-debtor Rita Ann Rich, known as 1117 North Maple Street, Eaton, Ohio 45320. Movant's mortgage is filed for record in the Preble County Recorder's Office. A copy of Movant's Note and Mortgage are attached hereto respectively as Exhibits 'A' and 'B'.

FIRST GROUND FOR RELIEF

2. Debtor was obligated to maintain regular monthly mortgage payments directly to the movant.

3. Debtor has failed to pay the agreed upon monthly payments direct to movant, said payments now being in default for the month of October, 2007 and subsequent months.

4. The automatic stay should be modified for "cause" under Section 362(d)(1) of the U.S. Bankruptcy Code.

5. The co-debtor stay should be terminated under Section 1301(c)(3) of the Bankruptcy Code, because movant's interest would be irreparably harmed by continuation of such stay.

SECOND GROUND FOR RELIEF

6. The Trustee may claim an interest in said real estate due to his position as Trustee.

7. Movant's mortgage has an approximate principal balance of \$120,000.00.

8. Pursuant to LBR 4001-1(a)(1) Movant has completed the Exhibit and Worksheet attached hereto as Exhibit 'C'.

9. Ocwen may claim an interest in said real estate by virtue of second mortgage lien, upon which the approximate amount due is \$29,803.41.

10. The fair market value of the property is less than the amount of all liens hereto.

11. The automatic stay and co-debtor stay should be modified due to a lack of adequate protection for movant's interest in the property, and because the debtor lacks equity in said property and property is not necessary to an effective reorganization.

12. Movant incorporates by reference its Proof of Claim and the debtor's schedules, states that any other lienholders as disclosed by said schedules may claim an interest herein, and states that it expects to present at a hearing on this matter the testimony of the debtor and the Chapter 13 Trustee.

WHEREFORE, movant prays that the automatic stay and co-debtor stay be modified to allow it to proceed in state court:

- a.) for cause based upon a material default in payments; and
- b.) for lack of adequate protection of interest in the subject property; and
- c.) for lack of debtor's equity in the property and because the property is not necessary to an effective reorganization.

/s/ Steven H. Patterson, Case Attorney
Steven H. Patterson
Bar Registration No. #0073452
LERNER, SAMPSON & ROTHFUSS
Attorneys for Movant
P. O. Box 5480
Cincinnati, Ohio 45201-5480
(513) 412-6600, ext. 3373
(513) 354-6464 fax
Email: SOHBK@lsrlaw.com

**NOTICE AND CERTIFICATE OF SERVICE
PURSUANT TO LBR 4001 AND 9013**

The undersigned certifies that a copy of the foregoing Motion for Relief from Stay and Co-Debtor Stay of the Secured Creditor, Saxon Mortgage, Inc., was served this date by either regular U.S. mail or via electronic filing on the parties whose names and full addresses are listed below as and for NOTICE that the Motion for Relief from Stay and Co-Debtor Stay has been filed. Unless within twenty (20) days after the date of the certificate of service a written responsive filing or memorandum in opposition is filed with the Court and served on the undersigned the stay may be lifted by the Court without further notice.

Dated: January 4, 2008 /s/ Steven H. Patterson, Case Attorney
Steven H. Patterson
Bar Registration No. #0073452
LERNER, SAMPSON & ROTHFUSS
Attorneys for Movant
P. O. Box 5480
Cincinnati, Ohio 45201-5480
(513) 412-6600, ext. 3373
(513) 354-6464 fax
Email: SOHBK@lsrlaw.com

PARTIES SERVED:

Areta J. Wentz
1117 North Maple Street
Eaton, Ohio 45320

Lester R. Thompson, Esq.
1340 Woodman Drive
Dayton, Ohio 45432

Rita Ann Rich, Co-debtor
1117 North Maple Street
Eaton, Ohio 45320

Ocwen
c/o U.S. Bank, N.A.
12650 Ingenuity Drive
Orlando, Florida 32826

Jeffrey M. Kellner, Trustee
131 North Ludlow Street, Suite 900
Dayton, Ohio 45402-1161

Office of the US Trustee
170 North High Street, Suite 200
Columbus, Ohio 43215

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Judge Humphrey

NOTICE OF FILING OF MOTION
FOR RELIEF FROM STAY AND
CO-DEBTOR STAY OF SAXON
MORTGAGE, INC. (PROPERTY
ADDRESS: 1117 NORTH MAPLE
STREET, EATON, OHIO 45320)

OFFICIAL FORM 20A

Saxon Mortgage, Inc. has filed papers with the Court to obtain relief from the automatic stay.

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion for relief from stay, then within 20 days from the date of this notice, you or your attorney must:

- * File with the Court a written request for a hearing, or if the court requires a written response, an answer, explaining your position at:

Clerk, U.S. Bankruptcy Court
120 West Third Street
Old Post Office & Courthouse
Dayton, OH 45420

If you mail your request or response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to the undersigned attorney at the address listed below together with all of the parties listed on the service list which appears on the last page of the Motion for Relief from Stay and Co-Debtor Stay which is attached hereto at the addresses listed thereon.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

DATED: January 4, 2008

/s/ Steven H. Patterson, Case Attorney
Steven H. Patterson
Bar Registration No. #0073452
LERNER, SAMPSON & ROTHFUSS
Attorneys for Movant
P. O. Box 5480
Cincinnati, Ohio 45201-5480
(513) 412-6600, ext. 3373
(513) 354-6464 fax
Email: SOHBK@lsrlaw.com

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Notice of Filing Motion for Relief From Stay and Co-Debtor Stay and the Motion for Relief From Stay and Co-Debtor Stay of the secured creditor, Saxon Mortgage, Inc., was served on this date by electronic filing or by regular U.S. mail, postage pre-paid, on the parties whose names and full addresses are listed below on the 4th day of January, 2008.

/s/ Steven H. Patterson
Steven H. Patterson, Case Attorney
Bar Registration #0073452
LERNER, SAMPSON & ROTHFUSS
Attorneys for Movant
P.O. Box 5480
Cincinnati, Ohio 45201-5480
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